

REMARKS

Claims 1, 3-12, 14-18 and 20 are pending. In the above-mentioned office action, all of the pending claims were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. pre-grant publication 2001/0044805 by Multer in view of U.S. pre-grant publication number 2002/0116404 by Cha et al. The Examiner's rejection of claims 1, 3-12, 14-8 and 20 was based on the Examiner's allegation that each and every limitation, of each and every claim, can be found in the combination of *Multer* and *Cha*.

The rejection of the subject claims under Sec. 103(a) is improper because the Examiner has not furnished articulated reasoning to support the legal conclusion of obviousness as required by *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007). Although *KSR* offers several rationales that might be used to support a rejection under Sec. 103, whatever rationale the Examiner employs must be supported by articulated reasoning, rather than mere conclusory statements. ("[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR*, 82 USPQ2d at 1396 quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006).") MPEP 2143.01. Further, "[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art." MPEP 2143.01 citing *KSR*; emphasis added. "A statement that modifications of the prior art to meet the claimed invention would have been 'well within the ordinary skill of the art at the time the claimed invention was made' because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a prima facie case of obviousness without some objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993)." MPEP 2143.01. Although an advantage or expected beneficial result from a combination of references may serve as a rationale for the combination, such advantage or expected

beneficial result must be recognized expressly or impliedly in the prior art, or must be drawn from a convincing line of reasoning based on established scientific principles or legal precedent. MPEP 2144, citing *In re Sernaker*, 702 F.2d 989, 994-95, 217 USPQ 1, 5-6 (Fed. Cir. 1983); emphasis added. In the instant Office Action, the Examiner has not furnished articulated reasoning with rational underpinnings to support the legal conclusion of obviousness.

Moreover, the independent claims, claims 1 and 12, have been further amended, as set forth herein. Paraphrased, claims 1 and 12 have been amended to recite that the change lists indicate only the changes made to a database *after* a previously-made synchronization session. The change lists therefore do not contain any data that relates to a previously-made update. The amended claim recite subject matter that is both new and non-obvious because the apparatus and method recited in claims 1 and 12 use less computational overhead, less battery power, less transmission time and less channel usage than either of the two prior art references cited by the Examiner. Stated another way, even assuming, *arguendo*, that one of skill in the art would attempt the combination offered by the Examiner, the cited combination of documents do not satisfy the limitations of applicants' amended claims.

Support for the amendments to claims 1 and 12 can be found in paragraphs [0022] and [0036]-[0042]. No new matter has been added.

Paragraph [0022] clearly states that each change list is associated with a change list identifier. The paragraph also states that change list identifiers are kept in a registry and that other previously-used change list identifiers that *uniquely* identify corresponding change lists are also kept in the registry. Since each change list identifier is unique and since each change list identifier uniquely identifies a corresponding change list, it necessarily follows that each change list is also unique, i.e., each change list is created *after* a previous update/synchronization session.

Paragraph [0039] states that the change list creator creates change lists that identify changes to a database. Paragraph [0040] states that additions to a change list are made “as needed.” Once a change list is locked, however, subsequent changes to a locked change list are prohibited. Paragraph [0041] states that each change list identifier uniquely identifies a corresponding change list as does paragraph [0022].

Independent method claim 12 has been amended so that it corresponds to apparatus claim 1.

The applicants assert that Multer fails to disclose a change-list that is unique, created for each synchronization session and which is locked after a synchronization session begins and that the change lists for any given synchronization session exclude change indicia for previous synchronization sessions. The amended claims are therefore considered to be new and non-obvious over Multer and Cha.

The applicants re-assert that the Examiner's reliance on Cha is misplaced. Cha appears to be directed towards synchronization of different versions of the same data base and not synchronization of a network-copy database and a mobile-copy database as set forth in the present invention and defined in the claims.

Neither Multer nor Cha lock a change list upon commencement of a synchronisation session. If a change is made to a database, the change would be listed in the update message and sent in the synchronisation message.

As the remaining ones of the dependent claims include all of the limitations of their respective parent claims, the dependent claims are believed to be distinguishable over the cited combination for the same reasons as those given with respect to their parent claims.

Accordingly, applicants respectfully request that the Examiner withdraw the instant rejection, and allow all of the claims now pending in this application.

In light of the foregoing facts and argument, reexamination and reconsideration of the application is respectfully requested.

Respectfully submitted,

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